

## **REMARKS**

### **I. Status of the Claims**

Claims 1, 2, 5, 6,13,14,17, 21-25, 27, 30-32, 34, 35, 49-51 and 53 are pending in this application. Claims 21-23, 27, 30, 32 and 35 have been canceled. Claim 53 is allowed. Claim 54 is new and depends on allowed claim 53. Support for claim 54 may be found throughout the instant application as filed. Applicants reserve the right to pursue this subject matter in an application claiming priority to the present application.

Amendment of the originally filed claims, or cancellation of any claims should in no way be construed as an acquiescence, narrowing, or surrender of any subject matter. The amendments are being made not only to point out with particularity and to claim the present invention, but also to expedite prosecution of the present application. Applicants reserve the option to prosecute the originally filed claims further, or similar ones, in the instant or subsequently filed patent applications.

### **II. Objections**

Claims 1, 2, 5, 6,13,14,17, 21-25, 27, 30-32, 34-35 and 49-51 have been objected because “they contain non-elected material.” The action states that applicants “elected a group where variable A is benzofuran and R<sub>2</sub> is pyrido[2,3-e][1,4]-diazepane.” Claim 1 has been amended to remove reference to non elected R<sub>2</sub> groups. Applicants believe that claim 1 is allowable and is a linking claim that prevents restriction between A groups. As the Examiner knows, restriction can be required when there is a linking claim, e.g. when a genus (e.g. bicyclic ring) claims a linking species claims, and if a linked invention (e.g. benzofuran) is elected, the linking claims are examined with the elected invention. MPEP 809 When a linking claim is allowable, a restriction requirement between the inventions it links cannot be maintained, MPEP 809.03. Applicants therefore request withdrawal of the restriction as to group A upon allowance of claim 1.

### **III. Rejection under 35 U.S.C. § 112, Second Paragraph**

Claims 1, 2, 5, 6,13,14,17, 21-25, 27, 30-32, 34-35 and 49-51 have been rejected under 35 U.S.C. § 112, second paragraph, as allegedly indefinite in the recitation of “water-solubilizing

group” of variable  $R_4$ . Solely to expedite prosecution, claim 1 has been amended to recite integer a as being 0, and therefore no  $Y_1$  or  $R_4$  moiety is present in the claimed structure. Applicants believe this renders the rejection moot. Applicants therefore respectfully request withdrawal of this rejection.

#### IV. Double Patenting

Claims 21-23 are objected to under 37 C.F.R. 1.75 as being a substantial duplicate of claim 1. Solely in order to expedite prosecution, Applicants have canceled claims 21-23. Applicants therefore request withdrawal of this objection.

Claims 25, 27, 30-32, and 34—35 are objected to under C.F.R. 1.75 as being a substantial duplicate of claims 24. Solely in order to expedite prosecution, claims 27, 30, 32 and 35 have been canceled. Claim 25 has been amended to recite that the pharmaceutically acceptable carrier is suitable for intravenous or injectable, administration. Support for such amendment may be found at for example on page 71 of the instant application as filed. Applicants note that such a pharmaceutically acceptable carrier more particularly claims the invention. Claim 31 has been amended to claim a tablet, which as the Examiner knows, could be considered a species of the claimed composition of claim 24. Claim 34 has been amended so that this claim depends on independent claim 53. Applicants therefore respectfully request withdrawal of this objection.

#### IV. Conclusion

In view of the foregoing amendments and remarks, Applicants respectfully request reconsideration and reexamination of this application and the timely allowance of the pending claims.

Any questions raised by this submission may be directed to the undersigned at (617) 570-8743. In accordance with 37 C.F.R. § 1.136(a), please grant any extension of time that this paper requires but no accompanying paper requests. The Commissioner is hereby authorized to charge any underpayments, or credit any overpayments, to our Deposit Account No. 07-1700,  
**Reference: IPT-075.**

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Respectfully submitted,

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